

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARK ANTHONY BROWN	:	CIVIL ACTION
	:	
v.	:	
	:	
JOHN KERESTES, et al.	:	NO. 08-1643

ORDER

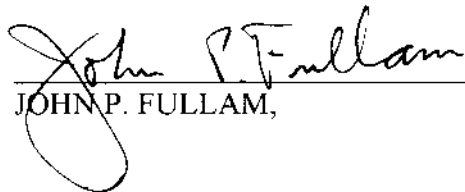
AND NOW, this 9th day of October, 2008, upon consideration of the petition for a writ of habeas corpus and the Commonwealth's response thereto, and after review of the Report and Recommendation of Chief United States Magistrate Judge Thomas J. Ruetcr, it is hereby

ORDERED

1. The Report and Recommendation is APPROVED and ADOPTED;
2. Claim Nos. 1 through 10 of the petition are DISMISSED with prejudice because they are barred by the one-year statute of limitations, 28 U.S.C. § 2244(d);
3. The petition for a writ of habeas corpus is GRANTED to the extent that the conviction for violating the Pennsylvania Corrupt Organization Act, 18 Pa. Cons. Stat. § 911 is VACATED and the matter is REMANDED to the Court of Common Pleas of Philadelphia County for re-sentencing on the remaining charges in the Bills of Information;
4. Petitioner's conviction and sentence pursuant to the Pennsylvania Corrupt Organization Act, 18 Pa. Cons. Stat. § 911, et seq., is VACATED; and

5. The Commonwealth of Pennsylvania shall release petitioner from his present confinement unless the Commonwealth provides him with a new sentencing hearing, within ninety (90) days of the court's order, so that petitioner can be re-sentenced on all the remaining charges for which he was convicted and sentenced.

BY THE COURT:


JOHN P. FULLAM, J.

10-9-08- FAXED TO:
A. PALMER